United Nations A/HRC/31/NGO/62

General Assembly

Distr.: General
18 February 2016

English only

Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Federation of Western Thrace Turks in Europe, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02387(E)

Please recycle

The Non-Recognition of the Turkish Minority of Western Thrace in Greece and the Limitations on the Right to Association of the Turkish Minority of Western Thrace in Greece

The principle of non-discrimination including is enshrined in the Universal Declaration of Human Rights and all other international human rights documents. The Eight Session of the UN Forum on Minority Issues on "Minorities in the Criminal Justice System" on 24-25 November 2015 has discussed the problems that minorities face in the justice system and recommended that an effective and responsive criminal justice system must, at the front end, combat social, economic, political disadvantage of minorities and that States, in this regards, should consider taking special measures for minority groups.

The restrictions and limitations on the right to freedom of association prevent minority groups to express and maintain their own characteristics and identities in the countries they live in. This would harm diversity in society and lead social segregation, exclusion and marginalization of minority groups.

Greece does not subscribe to the right of any group to self-identification on a collective basis. Greece only recognizes a "Muslim minority in Thrace"[1] and denies the existence of an ethnic Turkish minority in Western Thrace. Although some other groups are recognized and even welcomed and supported by Greek authorities, there are currently no associations in Greece operating legally with their names including the word "Turkish", which reflect the ethnic or national identity of their members. The Greek government declared in 1983 that there were no Turks in Greece and claimed that the members of Muslim minority are Greek Muslims. Xanthi Turkish Union, Komotini Turkish Youth Union and Western Thrace Turkish Teachers' Union were dissolved in 1986 by local courts and the Supreme Court decided the dissolution of the associations on the ground that the word "Turkish" referred to citizens of Turkey and could not be used to describe citizens of Greece.

On 18 February 2009, the report of the former Independent Expert on Minority Issues, Gay McDougall, following her mission to Greece on 8-16 September 2008, stated that "The absence of formal recognition by the state of a particular societal group as constituting "a minority" is not conclusive", and continued that "Rather, the existence of a group to which a state owes minority protections is a matter of objective facts and exercise of the right of self-identification by persons belonging to the group". The former independent expert urged Greece to protect the right to self-identification and the freedoms of expression and association of minority communities.2

The government continues to place legal restrictions on the names of associations that include the word "Turkish". There are three cases which have been brought before the European Court of Human Rights concerning the dissolution and refusal to register associations established by the persons belonging to Turkish Minority of Western Thrace, Greece:

35151/05 Bekir-Ousta and others, judgment of 11/10/2007, final on 11/01/2008
26698/05 Tourkiki Enosi Xanthis and others, judgment of 27/03/2008, final on 29/09/2008
34144/05 Emin and others, judgment of 27/03/08, final on 01/12/2008

---

[1]The legal status of the Muslim minority is based on the Treaty of Lausanne of 1923 signed between Turkey and Greece. The obligations assumed by Greece under Section III of this Treaty which deal with the protection of minorities, include the following basic rights and liberties with a right to establish, manage and control at their own expense, any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein.

[2] A/HRC/10/11/Add.3, p. 2, and paras. 83, 88 and 90.

These cases concern the dissolution or refusal to register the applicant associations by the competent courts on the sole basis of a suspicion that the applicants intended to promote the idea that an ethnic minority existed in Greece. On March 27, 2008, the ECtHR notified in writing its Chamber judgments in the cases of Emin and Others v. Greece (application no. 34144/05) and Tourkiki Enosis Xanthis and Others v. Greece (no. 26698/05). The Court held unanimously that there had been a violation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights in both cases, which concern associations founded by persons belonging to the Muslim minority of Western Thrace. In the case of Tourkiki Enosis Xanthis and Others the ECtHR also held, unanimously, that there had been a violation of Article 6 § 1 (right to a fair hearing within a reasonable time) of the Convention.

The European Court noted that the contested measure rested only on a simple suspicion concerning the true intentions of the founders of the association and concerning the actions that the association might pursue once it began to operate. The European Court also noted that even if the real aim of the associations was to promote the idea that an ethnic minority existed in Greece; this could not in itself constitute a threat to a democratic society.

Further to the European Court of Human Rights' judgments, the applicants requested the cancellation of the decision dissolving them (the case of Xanthi Turkish Union) or submitted a new registration of their associations before the national courts. The applications have been declared inadmissible on the ground that it is not possible to cancel a domestic decision which has become final in the context of non-contentious procedure following a judgment of the ECtHR, and that domestic law does not provide, in civil matters, for the reopening of proceedings following a finding of violation by the ECtHR. The Court of Cassation also dismissed on procedural grounds the applicants' appeals in cassation in the cases of Bekir-Ousta and others and Emin and others.

Council of Europe's Committee of Ministers closely follows the developments about the implementation of Court's judgments under the name of Bekir-Ousta group of cases against Greece since 2008. At the execution held on 5 December 2013(1186th meeting), the Committee of Ministers urged the Greek authorities to provide in due time concrete and tangible information on the measures that they are currently exploring in order to implement the individual measures, accompanied by an indicative calendar for their adoption.3 On 5 June 2014, the Committee of Ministers adopted an interim resolution and called upon the Greek authorities to take all necessary measures so that the applicants benefit from proceedings in compliance with the Convention requirements, in the light of the Court's case-law.

The Court declared on 5 January 2015 that it will rehear the cases of Bekir Ousta and others (35151/05), Emin and others (34144/05) and Turkish Association of Xanthi and others (26698/05) since Greece failed the implement the Court's decisions on Bekir Ousta group of cases. The Court reheard the three cases in July 2015; the decision of the Court is being awaited.

The Parliamentary Assembly of the Council of Europe (PACE) in its Autumn Session 2015 adopted a resolution deploring the persistent slowness in the implementation of decisions from the European Court of Human Rights (ECHR) and called for more firm measures. In its eighth report on the implementation of judgments of the European Court of Human Rights written by Klaas de Vries, Greece is one of the nine member states with the highest number of unenforced Court judgments with 558 cases which have not been implemented by the Greek authorities by the end of 2014.

In note verbal dated 29 May 20134 from the Permanent Mission of Greece to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights in relation to the written statement dated 10 May 2013 and submitted by the Federation of Western Thrace Turks in Europe (A/HRC/23/NGO/35), Greece noted that full implementation of the judgments is pending, due to procedural reasons. Greece noted that authorities are currently considering the most appropriate means and ways to implement the decisions, including possible legislative adjustments. We regret that the Greek authorities have failed to take any precise and concrete step. Given the time that has elapsed since the Court's judgments, we believe that the Greek authorities are, in fact, unwillingness to implement the Court's decisions.

---

[3] https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/OJ/DH(2013)1186/10&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864

[4] http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/142/72/PDF/G1314272.pdf?OpenElement

We urge the Greek Government:

- To implement, without any further delay, the decisions of the European Court in the cases Turkish Association of Xanthis and Others v. Greece, Bekir Ousta and Others v. Greece & Emin and Others v. Greece;

- To reaffirm the commitment of the Greek authorities to implementing fully and completely the judgments of ECtHR and amend the Code of Civil Procedures in such a way that it allows the implementation of the European Court decisions in matters related to freedom of association.

- To improve diversity throughout the system and develop strategies that are inclusive of minorities which would be part of an overall governmental policy for the promotion and protection of minority rights in the country.